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SUPREME COURT, U.S.

SEP 3 1947

IN THE

Supreme Court of the United States

OCTOBER TERM, [redacted] 58 59

No. [redacted] 6—Original.

UNITED STATES OF AMERICA, *Plaintiff*,

v.

STATE OF CALIFORNIA.

PETITION AND BRIEF OF ROBERT E. LEE JORDAN FOR LEAVE TO FILE MOTION AS AMICUS CURIAE, OR IN THE ALTERNATIVE AS INTERVENOR, WITH RESPECT TO TWO STIPULATIONS EXECUTED JULY 26, 1947.

JAMES E. WATSON,
ORIN DEMOTTE WALKER,
Counsel for Robert E. Lee Jordan.
815 15th Street, N. W.,
Washington 5, D. C.

August, 1947.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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SUBJECT INDEX.

	Page
PETITION FOR LEAVE TO FILE MOTION	1
BRIEF	3
General Statement	3
Argument	3
Point (1) Lack of Authority to Enter Into Stipulations	3
Point (2) Contrary to Public Policy and Oil Land Leasing Act of 1920, as amended	8
Point (3) Contrary to the Opinion of the Supreme Court of the United States and in Contempt thereof	11
Point (4) Interest of Petitioner in Subject Matter of Stipulations	13
Conclusion	15

CITATIONS.

Black's Law Dictionary	5
Brief, Amicus Curiae Jordan, Argument 7, Pages 14-15-16	9
Cartello v. U. S., 93 Fed. (2) 412	14
Complaint, United States Government v. State of California No. 12, Original	4
Constitution of the United States, Article 4, Section 3	5
Department of Interior Circular No. 1386, Para. 9, Page 4	9
Maps, Exhibits 2, 3 and 4 to Amicus Curiae Jordan Brief	7, 8, 15
Mullan v. United States, 118 U. S. 271	9
Oil Land Leasing Act of 1920 (41 Stat. L. 437)	9
As Amended 1935 (44 Stat. L. 1058, Sect. 17, Para. 3)	8, 9
Opinion of the Supreme Court in U. S. v. California, No. 12, Original	5, 11, 12, 15
Patton v. City of Los Angeles, 169 Cal. 521	8
Reply Brief Amicus Curiae Jordan, Pages 6-20	8
Statute of California 1929, Chapter 536	16
Statute of California 1938, State Land Act, 52nd Legislature, Chap. 5	17
The Cotton Plant, 10 Wall. 581, 19 Law Edition 983	5
Two Stipulations dated July 26, 1947	3, 4
U. S. v. Steam Vessels of War, 106 U. S. 607	5
U. S. C. A. Title 43, Chapter 20, Sec. 865	9
U. S. C. A. Title 18, Chapter 51, Cr. Code 19	14

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1946.

No. 12—Original.

UNITED STATES OF AMERICA, *Plaintiff*,

v.

STATE OF CALIFORNIA.

PETITION OF ROBERT E. LEE JORDAN FOR LEAVE TO FILE MOTION AS AMICUS CURIAE, OR IN THE ALTERNATIVE AS INTERVENOR, WITH RESPECT TO TWO STIPULATIONS EXECUTED JULY 26, 1947.

Robert E. Lee Jordan, as Amicus Curiae, or in the alternative as Intervenor, asks leave to file a motion, and brief in support thereof, for an order declaring that the two stipulations entered into by the Attorney General of the United States and the Secretary of the Interior with the State of California, dated July 26, 1947, be vacated, set aside and declared null and void, upon the grounds; (1) That the Attorney General and the Secretary of the Interior are without statutory authority to bind the United States by any stipulation or agreement purporting to alien-

ate or surrender title to or dominion over any part of the submerged lands belonging to the Federal Government, or the oil in them. (2) That the said stipulations are contrary to public policy and the provisions of the Oil Land Leasing Act of 1920, as amended. (3) That the stipulations are contrary to the opinion of this Honorable Court and in contempt thereof. (4) That your petitioner has a substantial lawful interest in the subject matter of the two stipulations, that the stipulations deny to him his rights under the Oil Land Leasing Act of 1920, as amended. That the material facts presented will assist the Court in the consideration of the said stipulations and are believed to be vital to the issues raised.

Copies of the attached motion and brief have been delivered to Counsel for the Government and the State of California.

JAMES E. WATSON,
ORIN DEMOTTE WALKER,
Counsel for Petitioner,
ROBERT E. LEE JORDAN.

BRIEF OF ROBERT E. LEE JORDAN FOR LEAVE TO FILE MOTION AS AMICUS CURIAE, OR IN THE ALTERNATIVE AS INTERVENOR, WITH RESPECT TO TWO STIPULATIONS EXECUTED JULY 26, 1947.

STATEMENT.

On July 26, 1947, the Attorney General of the United States and the Secretary of the Interior entered into two stipulations with reference to the submerged lands and the oil in them with the Attorney General of the State of California. The submerged lands and the oil in them, situated off the west coast of California and below the low water mark, were the subject of an opinion of this Honorable Court in the instant case.

Your petitioner maintains that he has a right and interest in a certain tract of submerged land adjacent to the City of Long Beach by virtue of an approved filing upon the records of the Department of the Interior and that his rights are jeopardized and prejudiced by the two said stipulations. F.R.C.P. Rule 24

That the said stipulations provide, by their terms, that they be deposited with the Clerk of this Court and "nothing herein shall be deemed in any way to abridge the power or jurisdiction of the Supreme Court with respect to the subject matter of this action," and that the jurisdiction lies in this Court to determine the validity of the said two stipulations.

ARGUMENTS.

First Ground

In support of the first ground set out in your petitioner's motion to declare the stipulations entered into between the Attorney General, the Secretary of the Interior, and the State of California, as null and void, your petitioner would point out that there is no statutory authority which grants

the Department of Justice and Department of Interior the right to enter into stipulations such as those which were made on the date of July 26, 1947.

The one stipulation, concerning the exclusion of certain submerged lands in what is described in the stipulation as San Pedro Harbor and which the Attorney General and the Secretary of the Interior have agreed upon as "not being claimed by the plaintiff in this litigation" is subject to close scrutiny.

The complaint filed by the Attorney General claims on behalf of the Government,

> "the land, minerals and other things of value underlying the Pacific Ocean lying seaward of the ordinary low water mark on the coast of California and outside the *inland waters* of the State."

While it is true that in the argument in support of the complaint, the following appears,

> "this suit does not involve any harbors, bays, rivers or other *inland waters* of California. It is limited solely to that portion of the open sea embraced within the three mile belt."

There can be no question that there is a vital difference between the argument advanced by the Attorney General and the wording of the complaint. The relief prayed for, is covered by the wording of the complaint, which excludes only, all "*inland waters of the State.*" If it was the intention to ask the Court to exclude bays, harbors, rivers, or other inland waters of California, these words should appear in the complaint. There is no indication of acceptance by the Court, of the argument, as being an amendment of the complaint, or expressed agreement by the Court, to the definition of "inland waters" or the exclusion of harbors, bays, rivers, etc. Your petitioner respectfully submits that the judgment being on the complaint, it does not include the limitations the Attorney General seeks to place upon the decision of this Honorable Court, by reason of the arguments advanced; and, therefore, the assumption of the

stipulation and the arbitrary setting aside of certain designated places on the Pacific Coast, are not in accordance with the finding of this Court, or within the relief granted by the finding of this Court. The provisions of the stipulations are, therefore, unwarranted in fact and not founded upon the judgment of this Honorable Court.

Inland waters are defined as being "interior water not on or bordering the sea; waters within the land and away from the coast; such waters as canals, lakes, rivers, water courses, exclusive of the open sea." (*U. S.* v. *Steam Vessels of War,* 106 U. S. 607, 1 Sup. Ct. 539; *The Cotton Plant,* 10 Wall. 581, 19 Law Edition 983; Black's Law Dictionary.)

The petitioner further submits that there is no authority in the statute which authorizes the Attorney General or the Secretary of the Interior, or either of them, to enter into any stipulations with respect to submerged lands in "the open sea," awarded to the Government by the finding of this Honorable Court. The opinion of this Honorable Court, on page 18, of the Advance Report of Opinion, states, "The Government holds its interest here and elsewhere in trust for all of the people and is not to be deprived of its interests by the ordinary Court rules decided particularly for private properties, individually owned pieces of property; and *officers which have no authority at all to dispose of Government property cannot by their conduct cause the Government to lose its rights by their acquiesence, laches or failure to act.*" The execution of the stipulations by the heads of the two Departments, as officers, purporting to exclude the Harbor of San Pedro from the instant litigation, is a willful and unlawful usurpation of the powers of Congress, which alone has the power, to dispose of the territory of the United States and therefore void. (U. S. Constitution, Article 4, Paragraph 3.) The Attorney General and the Secretary of the Interior are without power to waive any of the rights of the Government in any land of the Government and in attempting to do so have, in the opinion of your petitioner, set at naught the opinion of this Court, which granted "full dominion" to the United States Gov-

ernment in the submerged lands in the "open sea" and the oil in them.

One stipulation contains a statement that three designated places on the West Coast of California belong, by implication, at least, to that State. The basis for this surrender of property rights and interests is found in the stipulation which reads as follows,

> "The following areas are not claimed by the plaintiff in this litigation."

There is no authority for the foregoing statement. There is nothing in the complaint waiving the Government's claim or Act of Congress to support it.

The Attorney General and the Secretary of the Interior predicate quite a lot on this statement. Simply because certain pieces of property are not claimed in the instant litigation, they personally judge them to belong to California and purport to surrender all claims of the Government to them, solely and only because the question of title or dominion was not raised in this particular action. Fortunately, however, California still is in the position of having to prove title to the three places. The signers of the stipulation, however much they wish to deprive the Government of rights to the oil, are still subject to the restrictive action of Congress.

It was apparently intended, on the part of the Attorney General and the Secretary of the Interior, by entering into these stipulations, to reserve to the State of California, its sub-divisions, and its illegal lessees, the largest oil pool on the west coast, which is adjacent to the City of Long Beach, and thus deprive the Government of its rights to oil in that area of submerged land, granted it by the opinion of this Honorable Court. It may be of more than passing interest, to learn why the strip of submerged land in San Pedro Harbor was so set aside and delimited. From such information as is available, it appears that the parties to the stipulations secured a geodetic map, started at Point Firman, with a red pencil and arbitrarily arrived at a place

along the beach a short distance beyond Long Beach. It is not known what inspired hand guided this red pencil, which just so happened to hit a point on the coast where it did. The red line might just as well have been extended to Point Loma, or San Diego and there seems little rhyme or reason for that red pencil stopping where it did, except that it was necessary to so extend it to include the great oil pool. This is a new procedure for the transfer of proprietary rights in land and doubtless will be hereafter referred to as the precedent of the red pencil. We live in strange times. The interested parties have drawn an arbitrary line creating a bay, which they could enlarge or make smaller at will, by the simple expedient of a wandering red pencil, regardless of the opinion of this Court.

The stipulations do not, in terms, set out by and under what authority they have been executed. They are signed with the personal signatures of the Attorney General and the Secretary of the Interior. They have had their official designations placed under their names, presumably to carry a conviction of authority to the reader and give added weight and sanctity to the documents. Surely, these two gentlemen did not and do not think, by this form of execution of the stipulations, that the Government would be bound by the provision of their personal agreements. These stipulations are exactly what they purport to be, an expression of individual desires and hopes, not to effectuate the opinion of the Court, but in the interest of the trespassers.

Your petitioner refers to the map, marked Exhibit 2, which was filed by your petitioner as Amicus Curiae, of a survey made in 1868 which sets out that section of the coast, as it existed at that time, and which does not indicate any bay such as has been created by the Attorney General and the Secretary of the Interior. Your petitioner further points out that in his brief as Amicus Curaie, in the instant case, he called attention to the fact that since 1938 the City of Long Beach has created an artificial harbor, has filled in over the submerged lands and that this was done

for the purpose of trying to claim the oil in the submerged lands on the grounds that it was in the Harbor of Long Beach. The development of this artificial Harbor appears in Exhibit 4 of your petitioner's Amicus Curiae Brief. This Exhibit shows the extent of the fills made and the number of wells which have been located upon the filled-in submerged lands, to substantiate the foregoing statements. (*Patton* v. *City of Los Angeles*, 169 Cal. 521).

California will risk much if it relies upon the stipulations signed by the Attorney General and the Secretary of the Interior, individually, as being a quit claim of the three places by the Government or as a defense to any claims which may arise from acting upon the faith of the stipulations. The point, however, is upon what theory of good faith the Attorney General and the Secretary of the Interior could enter into such stipulations, in the light of the opinion of this Court.

Second Ground

In support of the second ground for declaring the stipulations null and void, the stipulations are contrary to public policy and contrary to the provisions of the Oil Land Leasing Act of 1920, as amended.

Your petitioner, in his reply brief to the brief of California (pages 6-20), fully described and set out the policy of the Government for reservation of the minerals beginning in 1785 and continuing up to the time of the passage of the Oil Land Leasing Act of 1920. For the sake of argument and granting that the submerged lands which the Attorney General and Secretary of the Interior have attempted to exclude from the operation of the judgment of this Court, it still must be asserted that any oil which might be found in the submerged lands so granted by stipulation in the artificial harbor of Long Beach, is reserved for the United States Government, and even should this Court hold that the submerged lands so excluded by the stipulations should go to the State of California, there can be no waiver

of the rights of the Government to the oil, which might or could be made by the Attorney General and the Secretary of the Interior which could bind or deprive the United States Government of its rights to the oil. (U. S. C. A. Title 43. Chapter 20 Sec. 865. *Mullan* v. *U. S.*, 118 U. S. 271, Argument F in Petitioner's Amicus Curaie Brief, pages 14-15-16).

The Oil Land Leasing Act of 1920 (41 Stat. L. 437) was passed for the purpose of enabling citizens of the United States to secure leases on land containing oil and other minerals for the purpose of development. The first paragraph of the Oil Land Leasing Act provides as follows:

> "That deposits of coal, phosphate, sodium, oil, oil shale, or gas in lands containing such deposits owned by the United States * * * shall be subject to disposition in the form and manner provided by this Act to citizens of the United States * * *."

In August of 1935, the Act was amended, and Paragraph 3 of Section 17 of the Act provides,

> "That the person first making application for the lease of any land not within any known geological structure, of a producing gas or oil field, who is qualified to hold a lease under this Act * * * shall be entitled to a preference right over others to a lease of such land without competitive bidding * * *."

The regulations issued by the Department of Interior, Land Grant Office, Circular No. 1386 states with reference to Section 17 of the Act, Paragraph 9, page 4 of the Circular,

> "A preference right over others to a lease without competitive bidding is granted under this Section as amended to (a) the person first making application for a lease of any land not within any known geological structure of a producing oil or gas field who is qualified to hold a lease under the Act."

The Secretary of the Interior has, by joining in the stipulations with the Attorney General, it would seem,

placed himself in a very precarious position. Under the Leasing Act, which he is bound by oath to uphold and follow, it is his duty and obligation, now that the interests of the Government in the oil in the submerged lands have been established, to issue oil and gas leases to those applicants who have qualified for leases under the provisions of the Leasing Act. By joining in the stipulations, he has repudiated the law and bound himself to become a party to a procedure which violates the law, denies the rights of American citizens to leases under the law, and contrary to the opinion of this Court. He has agreed to confirm illegal leases and has consented to permit the State of California, the trespasser, to issue further leases of Government land with his approval and consent.

By what right or authority can the power granted to the Secretary of the Interior, to make leases of Government land, be delegated or transferred by stipulations to the State of California and legalized merely by the consent of the Secretary of the Interior?

It is reported in the press, that in order to extricate himself from this delicate situation, the Secretary of the Interior has approached the Attorney General, seeking for an opinion that the Oil Land Leasing Act of 1920, as amended, does not cover the submerged lands. Such an opinion would enable him to declare void all of the legal filings for leases of the submerged lands under the Leasing Act and clear the way for the accomplishment of the purposes, political or otherwise, which seem inherent in the stipulations.

Since the foregoing paragraph was written, it is now reliably reported that the relief ardently prayed for by the Secretary of the Interior, to support his unhappy position, has materialized. The desired opinion of the Attorney General has been received and the decks are now cleared for action. The Interior Department has stated that, by reason of this opinion of the Attorney General, no leases will be granted the applicants who have filed applications for leases of the submerged land under the Oil Land Leas-

ing Act of 1920, as amended. Further comment on the foregoing would appear unnecessary and fruitless. The full circle is now complete.

The stipulations made by the two Departments with the State of California are in derogation of the law and deprives your petitioner of his rights under that law, now that this Honorable Court has determined that the oil belongs to the United States Government.

Third Ground.

In support of the third ground, for declaring the stipulations null and void, your petitioner sets out that the stipulation is directly contrary to the opinion of this Honorable Court and in contempt thereof.

The direction, in the opinion of this Court, provides only

> "that the parties on or before September 15, 1947, may submit a form of decree to carry the opinion of the Court into effect."

The purpose of the stipulations is definitely not one to carry into effect the decree of the Court. Its sole purpose is to prevent any action being taken under the decree against California until July 1948, and thus to nullify the effect of the opinion of the Honorable Court, and with the secret hope that within that period of time, the State of California, doubtless with the assistance of the Attorney General and the Secretary of the Interior, may be able to influence Congress in passing an Act to over-ride the opinion of this Court. As has been noted before, there is no authority for the Attorney General and the Secretary of the Interior to enter into any such stipulations, and their action cannot be considered to be other than a studied contempt for the opinion of this Court.

Attention is called to the fact that one of the stipulations sets forth quite fully the political remarks of the Attorney General at the hearing before this Court, to which remarks two of the Associate Justices properly took exception. It

appears to your petitioner, that these remarks of the Attorney General, constitute the basis of one of the stipulations which has been entered into, and *was made for purely political reasons* and not with a view of carrying into effect the opinion of this Court or in the interests of all the people of the United States, who, under the opinion of the Court, are the owners of the natural resources of the nation.

Your petitioner respectfully calls attention to that part of the decision of this Court which states:

> "that California is not the owner of the three-mile marginal belt along its coast, and that the Federal Government rather than the State has paramount rights in and power over that belt, an incident to which is full dominion over the resources of the soil under that water area, including oil."

This decision definitely places the control of oil within the hands of the Federal Government and the presumption is that the laws with respect to the development of oil and gas, passed by Congress would be followed. The relief for which the Attorney General prayed, in its complaint, as set out on page 1 of the Advance Sheet Opinion of this Court states:

> "The prayer is for a decree to determine the rights of the United States in the area as against California and enjoins California and all persons claiming under it from continuing to trespass upon the area in violation of the rights of the United States."

The Attorney General after making the foregoing prayer for relief, and securing a decree from this Honorable Court supporting his prayer, voluntarily entered into stipulations which set aside the injunction against the trespassers. There may be some other explanation for this action of the Attorney General, but to your petitioner, it looks like contempt of this Court in its worst form. It raises the question of the good faith of the Attorney General in the filing of this action. Why should the Attorney General ask for a finding

of this Court as to the rights of the Government to dominion over the submerged lands and the ownership and control of the oil and then immediately after having secured the desired decree, enter into stipulations to set aside that decree and by the terms of the stipulations threaten this Court by making it evident that steps will be taken in Congress to over-ride and hold at naught the opinion of this Court, made in the interests of all of the people of the nation. It seems to your petitioner that the conduct of the Attorney General should be brought to the attention of this Court for such action as they deem fitting under the foregoing circumstances.

There is no more valuable resource for national defense than oil and your petitioner considers the stipulations as being purposely entered into in the interests of the defendant in this action, as well as for the purpose of depriving the nation of its greatest single supply of oil on the Pacific Coast. From the facts as they appear in the stipulations, a charge of a political conspiracy might well be made.

Fourth Ground.

In support of the fourth ground, advanced for declaring the stipulations null and void, your petitioner respectfully shows this Court that in April, 1938, he filed the first application for a lease in the submerged lands off the coast of California, adjacent to the City of Long Beach, before any one thought there was oil in the submerged lands at that point. He filed under the provisions of the Oil Land Leasing Act of 1920, as amended, and has fully complied with the law and regulations of the Department of the Interior. The Land Division of the Department of Interior made an inspection of the tract filed upon, found that it was the first filing, and assigned to the filing the number LA-052976. Your petitioner applied for a lease of the tract registered by him in the Department of Interior, which application is still pending in that Department. Your petitioner, in 1942, brought suit against Harold Ickes, then Sec-

retary of the Interior, in the District Court for the District of Columbia, asserting title in the United States Government of the submerged lands off the coast of California and demanded that a lease be granted to him. The Secretary, at that time, was under the impression that the submerged lands belonged to the State of California and refused to grant a lease, until the question of title had been determined by this Honorable Court. This action was brought to this Honorable Court on an application for certiorari, which was denied. Almost immediately thereafter, Secretary Ickes changed his mind and decided that the submerged lands belonged to the Government, but still refused to grant a lease until the question of ownership was decided by this Court. The instant action was finally brought by the Attorney General in 1946, with the result that it was held the Government owned the submerged lands and the oil in them.

The line drawn by the Attorney General and the Secretary of the Interior, creating or extending the so-called Bay of San Pedro, cuts through the middle of the tract covered by petitioner's LA-052976. The stipulations provide for the confirmation of the illegal leases issued by the defendant, and its sub-divisions, which illegal leases, by whipstocking, have been draining your petitioner's filing since 1939, and would further prevent the issuance to him of the leases for the said tract under the Oil Land Leasing Act of 1920, as amended, as the Secretary of the Interior has authorized the State of California to issue additional leases, in violation of the Leasing Act. Your petitioner has been informed and verily believes that it is the intention of the Attorney General and the Secretary of the Interior, by means of the execution of said stipulations, to deny him his legal rights under the law, and to prevent his securing a lease. (*Cartello* v. *U. S.*, 93 Fed. (2) 412; Cr. Code 19, 18 U. S. C. A., § 51.)

Your petitioner believes that he has definitely established his rights under the Oil Land Leasing Act of 1920, as amended, to a lease, that the stipulations entered into by

the Attorney General and the Secretary of the Interior will deprive him of his rights under the Oil Land Leasing Act of 1920, as amended, that the only way in which his rights may be protected would be by the declaration of this Court holding null and void the stipulations of July 26, 1947, entered into between the Attorney General and the Secretary of the Interior with the State of California.

CONCLUSION.

It has been set out in the stipulations that their purpose was to provide a modus vivendi for the continued production of oil and that the question of the delimiting of the marine belt or marginal sea would take a considerable period of time and a stoppage of production would result in discomforture for the American People.

These positions are untenable, the complaint calls for a delimitation from the "low water mark." The complaint does not seek the delimitation of the low water mark as of any particular date. The objections and difficulties presented in the stipulations, to establishing the line of demarkation between the "three-mile marginal belt" and the tidelands and inland waters of California, are advanced only for the purpose of muddying the water. The opinion of the Court on page 4 of the Advance Sheet Opinion, last paragraph on the page, states:

> "Despite difficulties, this Court has previously adjudicated controversies concerning submerged land boundaries * * * such practice is commonplace in actions similar to this, which are in the nature of equitable proceedings."

The position of this Court may be readily and easily resolved, by the Court decreeing that the survey of the Surveyor General of 1868 be adopted as the line of demarkation. (Exhibit 2, Amicus Curiae Jordan Brief.) This will obviate any further action on the part of the Court and definitely settle the question of boundaries.

There is a lawful way by which a continuous production of oil may be secured and that is by following the law as set out in the Oil Land Leasing Act of 1920, as amended. Under this Act the ownership of the submerged lands and the oil in them, being determined to be in the United States, the Secretary of the Interior should immediately grant leases to those who have qualified under that Act. These lessees can at once make contracts with those who hold illegal leases from the State of California and are now draining the oil. All of the facilities for continuous production are available. By this procedure, the oil fields could be developed, as Congress intended they should be, according to law.

A reading of the two stipulations presents a rather unpleasant picture. The complaint alleges that the State of California was a trespasser, that it has been executing leases without right and has been receiving royalties and rentals, to which it was not entitled. The opinion of this Court found these facts to be as alleged. It is well to consider how and in what respects the State of California and its sub-divisions became trespassers. In 1929, the Leasing Act, which had been passed by the State of California in 1921 was repealed, for the reason that an investigation by a special committee appointed by the legislature of the State, reported that the State had no right or title in the tide and submerged lands off the coast of California or the oil in them. The said Act of 1929, Chapter 536 of the Statutes of California prohibited any State official or sub-division or official thereof from granting any leases to drill upon the

> "tidelands, either filled or unfilled, submerged lands, overflowed lands or beds of navigable rivers or lakes, and by so doing to extract minerals therefrom."

It must be presumed that with passage of this Act in 1929 the State of California was fully advised and convinced that Congress had not granted to that State any rights to oil in tide and submerged lands, which the State of California had been exercising prior to the passage of the Act of 1929.

There was at that time, and now is, a law against whip-

stocking, a practice of drilling for oil by slanting the well so as to drain oil from another's land. A driller was confined to the boundaries of his own land, and if by chance or design his well extended beyond his own boundary, he was liable in damages as a trespasser. In 1938, notwithstanding the legislative declaration prohibiting the granting of leases to drill on the lands excluded by the Act of 1929, the State of California passed the State Land Act (52nd Legislature, Chap. 5), an Act permitting the drilling of slanting wells from the uplands out into the tide and submerged lands. The law which was effective against the individual and made it unlawful for him to drill into his neighbors' land, now became lawful, so long as the land drilled into belonged to the United States Government, and the oil taken from under those lands was the property of the nation. There was a law to protect a man from theft of oil by his neighbor, but a license given by the State of California to the thief who stole from the Government. It is most difficult to understand these two divergent codes of morals, to say nothing of the legal implications. It is even more difficult, when the full extent of the trespass is understood and known, to understand how the two Departments, executing the two stipulations, under the facts, can show their good faith, as public servants, in the interest of the people of the nation, whose rights they are, by oath bound to protect.

This question quite naturally arises, does not the State of California, by evading the prohibitions set out in the Act of 1929, the passage of the Whipstocking Act of 1938, and in the issuance of leases to the oil companies to take the oil from the tide and submerged lands, lay itself open to a charge of conspiracy against the United States Government to cheat and defraud the United States Government of its oil? Under the facts, the State of California and its subdivisions, together, with those who have taken leases from it, with a full knowledge of the facts; which were well known, are entitled to no equities or consideration, but on the contrary, should be held liable in damages for the acts willfully committed during the past eight or nine years.

These stipulations are made by the Attorney General and the Secretary of the Interior with an admitted trespasser. They condone the illegal acts of the State of California; they sanctify the illegal leases and confirm them, and further authorize the State of California by and with the consent of the Department of Interior, to execute new leases and carry on.

There has probably not been another instance of a seeming lack of legal ethics quite equal to the present one. The action of the heads of those two Departments set at naught the Oil Land Leasing Act, deny the rights of those who have filed under that Act, nullify their approved filings, and enter into stipulations directly contrary to the finding of this Court, which has denied to California and its leseess (the oil companies), all rights in the oil.

There is a great shortage of oil and the Armed Forces are demanding additional supplies from the oil companies, which they have been unable to secure in the past, resulting in restricted operations in practically all branches of the Service. Under the finding of this Honorable Court, all of the oil in the submerged lands now belongs to the nation and is subject to disposition for the National Defense. No longer need the Armed Forces have to beg from the oil companies their essential supplies of oil. Under the finding of this Court, all of this oil can be first channeled into the National Defense and the nation will have at least one reserve source of supply, free from the control of the oil companies. Only in this way can there be full freedom for efficient operation. The stipulations, if permitted to stand will still leave the Armed Forces subject to the dictation of the oil companies and the State of California. There is too much involved to permit such a situation to exist. These stipulations must be declared null and void and the due process of law again become operative.

Wherefore, your petitioner prays this Court will decree that the stipulations are null and void, by reason of being beyond the powers of the Attorney General and the Secre-

tary of the Interior to make; that they are not binding upon the United States Government; that they are contrary to public policy, directly opposed to the opinion of this Honorable Court, and in contempt thereof; against the provisions of the Oil Land Leasing Act of 1920, as amended; and, the rights of your petitioner thereunder; and, that leave to file the foregoing be granted.

JAMES E. WATSON,
ORIN DEMOTTE WALKER,
Counsel for Robert E. Lee Jordan.